

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, June 25, 2013

REGULAR MEETING

Action Minutes

TIME & PLACE: The Mayor and the City Commission of the City of Truth or Consequences in the County of Sierra and State of New Mexico met in Regular Session in full conformity with the law and ordinances of said Commission in the Commission Chambers of said City, on Tuesday, June 25, 2013 at 6:01 P.M.

PRESIDING OFFICER: The meeting was called to order by Mayor Mulcahy who presided and Mary B. Penner, City Clerk acted as Secretary of the meeting.

ATTENDANCE: Upon calling the roll the following Commissioners were reported present:

Hon. John Mulcahy, Mayor
Hon. Sandra Whitehead, Mayor Pro-tem
Hon. Steve Green, Commissioner
Hon. Mike Kertesz, Commissioner
Hon. Jeff Richter, Commissioner

Also present:

Juan Fuentes, City Manager
Jay Rubin, City Attorney
Mary B. Penner, City Clerk

QUORUM: There being a quorum present the Commission proceeded with the business at hand.

CEREMONY: Mayor Mulcahy called for fifteen seconds of Silent Meditation.

Mayor Mulcahy called for the Pledge of Allegiance with Commissioner Whitehead leading the Pledge of Allegiance.

APPROVAL OF AGENDA: Mayor Mulcahy called for approval of the Agenda

“Commissioner Green moved approval of the Agenda as amended.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

COMMENTS FROM THE PUBLIC: Ms. Diane Lombardo, Director of Companion Animal Action Team came before the Commission, and thanked the Mayor for his recent event, and showed the TRAX Magazine where T or C made the cover of Making TRAX Magazine which is Animal Protection of New Mexico, and indicated that they have been working with us. And asked about the shelter.

CONSENT CALENDAR: Mayor Mulcahy stated we have three items under the Consent Calendar – City Commission Minutes – Regular 6/11/2013, Special 6/21/2013, and Golf Course Advisory Board Minutes – 5/8/13 & 6/12/13.

“Commissioner Green moved approval of the Consent Calendar as presented.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

PRESENTATION –

Ms. Wendy Sager Evanson, Sierra Perinatal Project Coordinator came before the Commission with a presentation, and provided the Commission with paperwork which includes a summary of work to date which included what the project is about; their goals, strategy, and statistics.

A copy of this information can be obtained for the Office of the City Clerk during normal working days/hours.

NEW BUSINESS: DISCUSSION/ACTION – REQUEST TO CHANGE THE NAME OF TOWN FROM TRUTH OR CONSEQUENCES BACK TO HOT SPRINGS – MR. IVAN PADILLA –

Mr. Ivan Padilla came before the Commission, and stated his request is to change the name back to Hot Springs from Truth or Consequences. And indicated there has been a lot of talk since I started this in regards to the cost, and stated the zip code will not change...addresses will not change.

He asks for your vote tonight to put this on the ballot in March.

City Attorney Rubin stated it might be helpful if I say one thing about the law, and referred to State Statute 3-6-1 & 3-6-2, and yes the first step would be to see what the Commission desires to even change the name...if you vote that you do desire to change the name then yes it can be placed on the ballot in March...if you vote you don't want to or take no action then I guess Mr. Padilla's next step is to go through the petition process that's set forth in 3-1-5.

Commissioner Kertesz asked of Mr. Padilla if he thought about getting a petition circulated.

Commissioner Green's concern was the cost of making the change, and my position would be, and I would like to see support from the citizens to see if this is a valid idea by a few or by many.

Commissioner Whitehead stated she has the same feeling as Commissioner Green...the expense, and that it should be put out through a petition to the residents of the City to see if they want to do this...and then go from there.

Mayor Mulcahy stated I sense we have some consensus here, and that this is a really big deal to make a decision like this. He stated it needs to come from the public, and it would be my recommendation...but based on what I've heard that we take no action tonight on this item.

Mr. Padilla – I would like a vote on this tonight.

Commissioner Richter – I don't think it's un-reasonable for the Commission to vote to put this on the ballot. This is hot springs that's our identity...it was known as Palomas Hot Springs in the past, and Hot Springs...Truth or Consequences, so I think it should be put on the ballot...it's easy to do...it's simple to do.

Mayor Mulcahy – We can be careful in stating the motion...there's two ways to do it...one is we would like to put this on the ballot or we would not, and I think the motion before us is probably in the affirmative with a vote following that...but we have to be real clear here...we don't want to make a mistake.

City Attorney Rubin – You know I want to throw something at you...I'm reading the Statute, and here's what it reads...it says...whenever the governing body of the municipality wishes to change the name of the municipality the governing body may submit the question of changing the name to a vote of the qualified electors of the municipality at the next regular municipal election, or at a special election called for that purpose...so it says when the governing body of the municipality wishes to change the name. So I'm thinking if you're going...if you are taking the position that you're gonna put this on the ballot actually I think it should be an action saying you wish to change the name.

“Commissioner Richter moved that we change the name from Truth or Consequences, New Mexico to Hot Springs, New Mexico.”

Mayor Mulcahy – I'll second that motion for the purposes of discussion.

Commissioner Green – I think it could be a slippery slope but on the other hand I think it could be a major...for the City that changed its name from Hot Springs to Ralph Edwards and why, and now felt that it really didn't reflect our true identity in changing its name back...I think just that very action of giving the citizens a right to determine in this particular case the name of the community that they choose to live in is certainly news worthy, and will give us I think positive press, however I would first like see the sentiment of the community, and what their feelings are, and then we can put it on the ballot either way if that is correct.

City Manager Fuentes – I want to follow-up on that comment about the election...what the Commission is considering is obviously is a motion whether to instruct staff when we bring forward the Election Resolution which is normally adopted in November that it will have that question...basically that would be the vote tonight. Now if the vote is...if the motion is denied then Mr. Padilla has the option to proceed with a petition and referendum, and under State Statute there is a process for that, and we will work with Mr. Padilla if that is the course of action that he has to take to coordinate it so that the petition falls in line with the election...with the next regular election so we would have to coordinate that time frame with him because obviously by State Statute once he initiates that petition process there is a certain time frame.

Commissioner Green – If we decide to go through the referendum route how much time does that give Mr. Padilla to do what he has to do to be able to get it on the ballot...to Commissioner Kertesz's point we wouldn't be forced to have a special election.

City Attorney Rubin – I don't really want to sit here and analyze it's a very long complicated set of Statutes to look at...and when the election would be held.

Commissioners Richter/Kertesz Voted Aye
Commissioners Whitehead/Green/Mulcahy Voted Nay
Motion fails.

DISCUSSION/ACTION – AWARD OF BID – AIRPORT FUEL FARM –

Ms. Pat Wood, Procurement Office, and Mr. Mark Huntzinger with WHPacific came before the Commission for award of the bid for the Municipal Airport Improvements 2013 Fuel Farm Upgrade, and Ms. Wood stated they opened the bids on June 18th, 2013 at 10:00 AM, IFB: 12-13-8403-0429-840.

She stated we received two bids...one from Quantum Projects, and from D&H Pump Services, and that a recommendation is being made by our Engineers WHPacific that we not accept the bid from Quantum Projects as there were 3 problems with the bid.

Mr. Mark Huntzinger with WHPacific came before the Commission, and indicated they were unable to verify that Quantum Projects had a required Public

Works Registration, and by State Statute if we can't show, and they can't show that they had this registration the bid cannot be accepted so that is the basis of the recommendation of the bid not being accepted...secondly and continuing to evaluate it the bid bonding company was not listed on the Federal web-site for bonding companies, and third their bid was conditional, and that they wanted payment for equipment, tanks and materials prior to the delivery of the equipment, tank, and materials which is contrary to State Statute.

Ms. Wood stated the recommendation is being made to award the bid to D&H Pump Services for \$747,573.75 including GRT, and this is subject to funding from the NMDOT Aviation Division Grant and City funding.

“Commissioner Green moved to award the contract to D&H Pump Service for the Fuel Farm Upgrade for the base bid amount of \$693,000 plus 7.875% of NMGR for a total of \$747,573.75 subject to funding from NMDOT Aviation Division Grant and City funds.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

DISCUSSION/ACTION – AWARD OF SOLID WASTE SCALE PROJECT

–

Ms. Pat Wood, Procurement Officer came before the Commission, and stated this is a bid award for the City of Truth or Consequences Solid Waste Collection Center Concrete Deck Motor Truck Scale Installation Re-Bid, IFB: 13-14-6103-0528-825. She stated we opened bids on June 18th, 2013 at 2:00 PM. And that we received only one bid from Rusty's Weigh Scales & Service, Inc., and that they are out of Lubbock, Texas.

She stated a recommendation is being made by Gordon Environmental to award the bid to Rusty's Weigh Scale & Services in the amount of \$157,310.88 which includes GRT.

“Commissioner Green moved approval of awarding the contract for the Solid Waste Collection Center Concrete Deck Motor Truck Scale Installation to Rusty's Weigh Scale & Services in the amount of \$157,310.88 which includes NMGR.”

Seconded by Commissioner Richter.
Motion carried unanimously.

DISCUSSION/ACTION – RENEWAL CONTRACT SERVICES BETWEEN THE CITY OF TRUTH OR CONSEQUENCES & SUNSMITH SAFETY SERVICES –

Mr. Gil Avelar, Electric Department Supervisor came before the Commission, and stated he has been with this individual for about 27 years, and that he was part of a State Safety Program which the City became involved, and stated with the help of this individual we have become more competent, and have upgraded our safety program considerably with materials and programs, and that they have been very instrumental. He stated we have a great safety record.

“Commissioner Green moved approval of the MOA between Sunsmith Enterprises and the City of Truth or Consequences to conduct 8 safety and training classes for the Electric Department.”

Seconded by Commissioners Kertesz/Whitehead.
Motion carried unanimously.

DISCUSSION/ACTION – RESOLUTION #39-12/13 – AUTHORIZING SUBMISSION OF AN APPLICATION FOR AIRPORT AID TO THE FAA

& OBLIGATION OF SPONSOR MATCHING FUNDS AND AUTHORIZATION TO ACCEPT THE RESULTING GRANT OFFER. THE PROJECT SHALL CONSIST OF TAXIWAY A PAVEMENT MAINTENANCE –

Bill Slettom, Community Development Director came before the Commission, and stated the subject area that we will be working with is Taxiway A, and explained the Scope of Work; Pavement Crack Filling, and stated when that is completed it will be seal-coated, and then get new pavement marking.

He stated the Scope of Work also includes the engineering services, and the construction inspection...on-sight inspection from the engineers, and indicated that is an FAA requirement. He stated the cost breakdown; construction, engineering and inspection total \$187,516.00, and this is being funded through the FAA, and their share is 90% so that is \$168,764...the remaining 10% is being split between ourselves, and NMDOT Aviation Division bringing our share down to \$9,376 for this entire project. And indicated this was brought before you April 19th or so when we needed your permission to make this application so now...you're authorizing the submission of the application, and that we will accept the grant funds.

“Commissioner Green moved approval Resolution #39-12/13 – Authorizing Submission of an Application for Airport Aid to the Federal Aviation Administration (FAA) and Obligation of Sponsor Matching Funds, and Authorization to Accept the Resulting Grant Offer. The Project shall consist of Taxiway A Pavement Maintenance.”

Seconded by Commissioner Richter.

Mayor Mulcahy responded Aye to a Roll Call Vote
Commissioner Whitehead responded Aye to a Roll Call Vote
Commissioner Green responded Aye to a Roll Call Vote
Commissioner Kertesz responded Aye to a Roll Call Vote
Commissioner Richter responded Aye to a Roll Call Vote

Motion carried unanimously.

**DISCUSSION/ACTION – APPOINTMENTS/RE-APPOINTMENTS FOR VARIOUS CITY BOARD'S TERM EXPIRATIONS: 6/30/13:
LIBRARY ADVISORY BOARD
PLANNING & ZONING COMMISSION
PUBLIC UTILITY ADVISORY BOARD**

City Clerk Penner stated these are brought to you every year, and Ms. Pat O'Hanlon has submitted a memo to replace board member Daniel Kowacich who has moved out of town, and requesting the appointment of Ms. Carol B. Wilson to the Library Advisory Board.

Planning & Zoning Commission recommendation is being made to re-appoint Ms. January Roberts and James Jacobs to the Planning & Zoning Commission. And stated that Ms. Joey Perry has indicated that she does not want to serve another term on the board.

Public Utility Advisory Board recommendation is the re-appointment of Mr. James Hunt to the board.

“Commissioner Green moved to accept the resignation of Daniel Kowacich, and appreciates the willingness of Carol Wilson to serve on the Library Advisory Board.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

“Commissioner Green moved to accept unfortunately the resignation of Joey Perry, and to send a letter of appreciation to that affect, and re-new the re-appointment of January Roberts and James Jacobs to the Planning & Zoning Commission.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

“Commissioner Green moved the re-appointment of James Hunt to the Public Utility Advisory Board.”

Seconded by Commissioner Whitehead.
Motion carried unanimously.

**DISCUSSION/ACTION – BUDGET ADJUSTMENT FY – 2013 –
RESOLUTION #40-12/13 –**

City Manager Fuentes stated this is the final budget adjustment for the fiscal year, and this is a result of the Commission authorizing staff to withdraw some of the funds we have invested in Certificate of Deposits with Compass Bank for the R&R Wastewater and R&R Water fund. And indicated the Commission authorized staff to withdraw \$50,000 from each of those CD’s which in turn will be deposited in their respective operating fund which is the water and wastewater, and this will be used to construct some sludge concrete beds to expand the processing of the sludge at the wastewater treatment plant, and for the Cook Street pump station for our Well system.

He stated in addition to that we’re also asking an internal transfer from the Utility Enterprise Fund Electric Division to the Utility Office...and as you recall in the middle of the fiscal year we separated the Joint Utility Fund, and separated all of the other funds to better account for their actual activity...the utility office is the clerical support for all the other funds, and since they have their own independent fund then funds have to be transferred for that administrative clerical support.

“Commissioner Green moved approval of Resolution #40-12/13 – Requesting Budget Adjustments in the Revenue and Expenditure Budget for FY/2012-2013.”

Seconded by Commissioner Richter.

Mayor Mulcahy responded Aye to a Roll Call Vote
Commissioner Whitehead responded Aye to a Roll Call Vote
Commissioner Green responded Aye to a Roll Call Vote
Commissioner Kertesz responded Aye to a Roll Call Vote
Commissioner Richter responded Aye to a Roll Call Vote

Motion carried unanimously.

REPORTS:

CITY MANAGER -

City Manager Fuentes stated he would like to give a report on the status of some of the projects at the swimming pool. And presented a power point. And indicated that this project should be completed in late July or early August.

Armijo Park Restroom Project – The building is ready for stucco and the roofing, and stated they are expecting some delays due to the recent...severe weather conditions in other parts of the States, and that material is back logged, and thinks this project will also be completed around the same time as the pool project.

City Manager Fuentes stated he wanted to recognize staff...Bill Slettom for some of the projects that we have been able to get funding for. For the next fiscal year

we're working on the MainStreet Grant Project - \$75,000, and stated Consensus Planning is in communication with our local MainStreet group. Water Trust Board - \$160,000, and explained this is for an asset management plan, and a PER on the water system. Affordable Housing Plan - \$15,000 grant and we will be matching that with \$15,000. He stated we spoke to a representative from NMFA, and our application for \$50,000 for a Comprehensive Plan update will be going before the board in July, and we're hopeful that we're going to receive that.

City Manager Fuentes stated that staff is preparing a permit...a demolition permit that will be submitted to the State for demolition of the old fire house.

CITY ATTORNEY –

City Attorney Rubin stated as you have instructed I am in the process of working on our Code of Ordinances, and hope to bring to you in the next few meetings...a draft of changes that I will be suggesting regarding the nuisances that we talked about a couple of meetings ago.

He stated in the mean time I have instructed, and I am aggressively enforcing our code right now, and that we've had numerous filings in Municipal Court, and I had a trial today, and it was successful from our position.

COMMISSIONERS –

Commissioner Richter stated in my spare time I get on the internet, and look at other Cities, areas, and Counties that I know of...that I've lived in, and I look at their solid waste on how they handle their solid waste and C&D.

He stated he spoke with Manager Fuentes about this, and it appears that we have a lot of room in one of our cells at the landfill for C&D...concrete and demolition, and I got an idea from Sedgwick County Kansas that had like...there's happen to be a tire amnesty, and what they did is they said ok everybody in the County who wants to bring in tires...bring them in free of charge, and we're gonna grind them up and get rid of them. So what I would suggest/propose is that we have a C&D amnesty countywide...free of charge. And if we don't fill up these cells we're gonna have to pay to have fill brought in, and that's gonna be fairly expensive.

Commissioner Green stated he would like to congratulate Paul Tooley, and that he was recognized as the NM Fire Chief of the Year, and congratulations to Assistant Chief Ron Hoskins, Jr., he was recognized as NM Fire Firefighter of the Year, and when you add Leonard Carrillo as NM Recycler of the Year, and that in the gambling world is called trifecta, and stated there is probably no other community in New Mexico that can make that claim this year except Truth or Consequences, and I think that is news worthy press release.

He stated he wanted to thank Sierra County Health Council for hosting the discussion the potential of transportation coming into our County, and connecting down to Las Cruces.

Commission Green sated it has come to my attention after the meeting of June 17th where the Commission was discussing allocations of lodger's tax and sub-recipient grants. And based on the number of phone calls that I received after that meeting, and the inquiries on the street...it certainly appears to me that there is a little bit of a lack of understanding in our community on the role of the Commissioners...the role of the Mayor. And that there seems to be confusion between our form of government, and even Elephant Butte's form of government which is totally different. So if you would bear with me I would like to try and clear the air. Elephant Butte – they have a Mayor/Council form of government...you run as a council person...if you want to be the Mayor you run as a Mayor and you are elected if you are fortunate enough by the citizens of that community, and that the Mayor presides over the Commission meetings, but the

Mayor has no vote, and the only time the Mayor votes in Elephant Butte for example in that form of government is to break a tie...now the City of Truth or Consequences has a different form of government ours is a Commission/Manager form of government...and I'm gonna read out of the City Rules of Procedure...so how do we elect a Mayor and what is the role of the Mayor because I think that's what happened on June 17th there was a statement made by the Mayor, and I'm gonna paraphrase, and I think it was totally misconstrued, and there were points added on to what was not said that the perception of the community was as follows...I think the Mayor said something to the affect that I am responsible to the citizens of this community...and that's all he said, but in the minds of those listening on the radio...talking to their friends, and in the audience what they added on to that statement was...as Mayor I am speaking for the Commission, and that is not a true statement, and is not a true thought...so let's just discuss what the role of the Mayor is in our form of government. And first of all when you have an election every two years the Commission re-organizes itself at the first organizational meeting of the new City Commission the members thereof select one of its members to act as Mayor for two years the Mayor has all the powers and duties of a Commissioner which means he or she can vote, and they are equal to every other Commissioner on that Commission as well as the right to vote on all matters that come before the City Commission in conjunction with the above election, and a Mayor Pro-tem shall also be elected in a like manner. The presiding officer...the Mayor shall preside at all meetings of the City Commission, and be recognized as the official head of the City for all ceremonial purposes, civil processes and for military purposes, and the Mayor has no regular administrative or executive duties in case of the Mayor's absence or temporary disability the Mayor Pro-tem shall act as Mayor during the continuance of their absence. So what I would like to get heard, and hopefully I am being heard is that the Mayor runs as a Commissioner first, and then by a nomination, and a second a vote is taken...a majority vote makes that person whose name has been nominated become the Mayor, but the Mayor and the confusion seems to be when the Mayor speaks he is speaking as the title of a Mayor, but he is also speaking as a Commissioner, and he has 20% or she has 20% of the vote of this Commission, and has no more power than any fellow Commissioner...so when the Mayor speaks he does not speak for the Commission as I cannot or any other Commissioner can speak for the Commission the only time we can speak for the Commission whether it be the Mayor or a Commissioner is after a vote has been taken, and then it becomes public knowledge...so I hope that has clarified some of the misunderstanding that happened it seemed to have happened on June 17th it kinda boiled up at least in my home with the phone just ringing and ringing and ringing, and people not quite understanding whose roles are what, and how our City functions at this particular level.

Commissioner Whitehead – No report.

Commissioner Kertesz – Steve are we not gonna speak of our phone call this morning.

Commissioner Green – I'm sorry...I'm at a loss.

Commissioner Kertesz – Talking about the phone call to Christine Anderson.

Commissioner Green – Manager Fuentes...That's kinda in a work in progress can we just say that as pertained to a vote at our last City Commission meeting authorizing Commissioner Kertesz, myself and Manager Fuentes to meet or have some type of communication with the Spaceport Authority, and in this particular case a conference call was held with the Spaceport Authority, and with Follow the Sun Tours, and it pertained to the contract that they signed resulting from an RFP which they participated in, and we are moving forward to understand, and hopefully resolve some of the issues that were expressed in this morning's conversation.

City Manager Fuentes – I think it was a very productive conference call, and

there is going to be further discussions with all of the parties, and it looks like we can reach an agreement that could benefit all of the communities in Sierra County.

Mayor Mulcahy stated I would like to let you know about my activities on Saturday...I went and saw a potential emergency, and as a Commissioner I contacted The Emergency Management Office the hospital dispatch, and I wanted to know if we have a bunch of people having a problem...a respiratory problem because the smoke is coming in real fast, and half of the people in this County are either asthmatic or have COPD...and we have an unique situation in our community. So as a Commissioner I contacted City staff, and Mr. Fuentes, and said please help me mobilize just in case we need it an air conditioned facility...a City facility to do that, and I headed over to the emergency room to see for myself what was going on. And I spoke with Dee Rush, and spoke with the emergency room physician, and by that time Mr. Williams had arrived at the Lee Belle Johnson Center with the disaster trailer, and lined up air conditioning, staff, cots and we were ready, and we are still ready just in case some of the senior citizens in our community need a place to get out of a swamp cooler. I am very proud of what the City did in their response, and proud of what the rest of the community did...and we stand ready.

And I add a comment Commissioners to the fact that this is a very weak form of government from a Mayor's stand point...there is 6 of these out of 115, and leadership does not require a title...that's all I'm gonna say.

Mayor Mulcahy stated we went to a NMML meeting on Saturday...Commissioner Green, Manager Fuentes and I, and we had some very good discussions at the State level about what sort of policies we should be pursuing for economic development, taxation for a number of other things, and that he met the Mayor of Aztec.

He stated he received a call from the bookkeeper for the museum, and stated she was going to deliver a clean bill of health and a copy to you, and that she has conducted an audit of this year's activity, and she is convinced there are no improprieties, and stated we discussed on the 17th, and my discussion on the 17th was intended not to insinuate anything about wrong doing...but that there was sloppy bookkeeping...and I have that evidence...I've shown it to Commissioner Green, and I believe we're gonna find at our next meeting or actually the audit that we're gonna find that Geronimo Springs Museum is in good standing, and has basically been given a clean bill of health...so I'm very glad about that.

Mayor Mulcahy stated he went to the launch out at the Spaceport at 4:00 AM last Friday, and I spoke with all the parties including Spaceport America, and Virgin Galactic, and all the teachers that were out there. And we had an incredible experience it was another perfect launch...but on that launch was 31 cremains, and I spoke at a monument service for them on Thursday, and it was extremely moving, and very powerful, and I want to report to the Commission that there were over a hundred people that came with them for 31 people who were launched or participants on the rocket, and indicated they were from all over the United States...some from South America so it was a situation that was extraordinary exposure as a community.

Commissioner Green stated he was coming back from Albuquerque, and was with the Mayor and the Manager, and he felt a sense of pride of being part of this City Commission because the Manager, and the Mayor realized the potential danger that our citizens were in...and they were on their cell phones, and phone calls going back and forth to the hospital, dispatch, and Mr. Williams, and it was really people caring about people, and he wanted to thank Manager Fuentes and Mayor Mulcahy for realizing the potential danger, and jumping on it and putting everything in place...and thanks Mr. Williams.

RESPONSE TO PUBLIC COMMENT: None.

ADJOURNMENT: There being no further business to come before the Commission the meeting was adjourned.

APPROVAL: PASSED AND APPROVED this _____ day of _____, 2013 on motion duly made by Commissioner _____, seconded by Commissioner _____, and carried.

JOHN A. MULCAHY, MAYOR

MARY PENNER,
CITY CLERK